

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2003-797

February 24, 2004

STRONG WATER DISTRICT  
Request for Approval of Transfer of Assets for  
A Lease Agreement for Water Rights to Day  
Mountain Pond

ORDER

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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### **Summary of Order**

We allow the Strong Water District (District) to lease, to J & L Electric of New Vineyard its water rights to Day Mountain Pond, approximately 15 acres of land, the intake facilities and the transmission main from Day Mountain Pond. The term of the lease is 20 years. The rent will be \$4,000 per year for a period of ten years and will be renegotiated at the end of the tenth year.

### **Procedural History**

On October 17, 2003, the Strong Water District filed with the Commission its petition for lease of its water rights to Day Mountain Pond, approximately 15 acres of land, the intake and the transmission main from Day Mountain Pond. The Lease agreement was dated October 5, 2003 and was signed by the Trustees of the District and the owners of J & L Electric. On February 10, 2004, the District filed a revision to the lease eliminating the provision giving J & L Electric the right of first refusal should the District decide to sell the property and water rights.

### **Background**

The District used Day Mountain Pond as its primary source of public water supply through 1979. In 1980, a gravel packed well was constructed and began supplying the Town of Strong. In August of 1980, the District began leasing its water rights to Day Mountain Pond, the intake facilities and the transmission main to Forster Manufacturing Company, Inc., (Forster). Under that lease Forster paid the District \$7,000 per year and used the leased property to supply boiler water for its Strong plant. Forster has ceased operations and is no longer leasing the District's property.

The District now proposes to lease the property to J & L Electric for \$4,000 per year for the first 10 years of the 20-year lease. It is the intent of the parties to the lease to renegotiate the lease payments at the end of the first ten years. J & L Electric is using the property to generate electricity. No other parties are currently interested in leasing the District's property.

**Conclusion**

Under 35-A M.R.S.A. §1101, a public utility must secure an order of authorization from the Commission before it may lease any part of its property that is necessary or useful in the performance of its duties to the public. The District has applied for authorization to lease this property because it is useful in the performance of its duties, as a backup source of water supply, and it is land subject to the provisions of 35-A M.R.S.A. Section 6109. The Commission will approve the lease because it appears to be in the best interest of the District and its ratepayers.

Accordingly, we

**O R D E R**

1. That this Commission authorizes and approves the revised lease by the Strong Water District to S & L Electric of its water rights to Day Mountain Pond, approximately 15 acres of land, the intake facilities and the transmission main from Day Mountain Pond for a term of 20 years. The annual \$4,000 payment under the lease is to be renegotiated at the end of the first ten years. If the parties fail to renegotiate, the lease the payments will continue at \$4,000 until a new agreement is reached. The lease is attached Exhibit A; and

2. That an attested copy of this order shall be sent to David Adams, Chairman, Strong Water District, P.O. Box 31, Strong, Maine 04983.

Dated at Augusta, Maine, this 24th day of February, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Diamond  
Reishus

COMMISSIONER ABSENT: Welch

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.